

EXHIBIT 12

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RICHARD ROSARIO,

Plaintiff,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.

18-cv-4023 (LGS)

DECLARATION OF AVINASH SAMARTH

I, AVINASH SAMARTH, an attorney admitted to practice in the State of New York and the Southern District of New York, submit this declaration under penalty of perjury:

1. From 2019 until 2020, I was employed as a fellow at the firm Neufeld Scheck & Brustin, LLP, ("NSB") with offices at 99 Hudson Street, 8th Floor, New York, New York 10013.
2. I make this declaration in support of an application for attorneys' fees pursuant to 42 U.S.C. § 1988, covering the hours I expended on this matter. I am fully familiar with the facts discussed herein.

EDUCATION AND EXPERIENCE

3. I graduated from Yale Law School in 2016, where I was a Senior Editor of the *Yale Law & Policy Review*. After graduating, I worked at the Bronx Defenders as a Staff Attorney for three years. I joined NSB as a fellow in 2020. As of June 2022, I am now the Associate Court Attorney for Judge Wanda Licitra in Bronx Criminal Court. My most recent resume is attached as Exhibit A.
4. During my time at NSB, I worked almost exclusively on 42 U.S.C. § 1983 civil rights litigation in federal courts around the country. My practice focused on wrongful conviction cases such as Richard Rosario's, involving lawsuits against police, prosecutors and/or state and municipal crime lab employees for unconstitutional misconduct. This body of law,

arising at the intersection of criminal procedure and civil rights, is relatively new and constantly evolving. To my knowledge, NSB is the only firm in the nation litigating these issues full time.

5. Generally, all these cases involve procedural defenses such as absolute and qualified immunity and require a nuanced understanding of the differences between what it takes to vacate a criminal conviction and the elements of civil liability. In addition, the cases typically involve the same sets of claims, including for fabrication of evidence, *Brady*, and malicious prosecution, and involve similarly flawed inculpatory evidence, including misidentifications caused by suggestive identification procedures. My focus on these issues during my time at NSB, as well as access to NSB's collective knowledge derived from litigating these cases for over twenty years, made my work on this case much more efficient than it otherwise would have been.
6. On behalf of Plaintiff, I am seeking compensation for my work at a rate of \$400 an hour. In my opinion, this requested rate is reasonable in light of the relevant market and my experience and skill.

WORK IN THIS CASE

7. I am seeking compensation, on behalf of Plaintiff, for the time I spent on this matter from October 2019 to February 2020.
8. Under the guidance of my senior colleague, Anna Benvenuti Hoffmann, I was heavily involved in summary judgment briefing, including drafting the 56.1 statement. I also assisted with expert depositions.
9. As set forth in the billing records attached as Exhibit B, which come from contemporaneously kept timekeeping logs, I am seeking compensation for a total of 143.4 attorney hours in this matter.
10. I have reviewed the attached billing record in its entirety, and made an effort to take a conservative and reasonable approach to the total hours for which I seek compensation. In my judgment, each hour set forth in Exhibit B was necessitated by the circumstances and

reasonably expended in pursuit of the ultimate favorable outcome in this complicated and important civil rights case.

11. I hereby declare under penalty of perjury that the foregoing is true.

Date: October 5, 2022

New York, NY



AVINASH SAMARTH

EXHIBIT A

Avinash Samarth**EDUCATION**

- YALE LAW SCHOOL**, New Haven, CT 2013 – 2016
- *Activities*: Clinical Student Board (*Chair*); Yale Civil Rights Project (*Civil Liberties Chair*); Yale Law & Policy Review (*Senior Editor*); Yale Journal of Law and Technology (*Editor*); Green Haven Prison Project (*Member*).
 - *Awards*: C. LaRue Munson Prize (for excellence in presenting cases under law school clinical programs).
- UNIVERSITY OF PENNSYLVANIA**, Philadelphia, PA 2007 – 2011
- Bachelor of Arts in Philosophy, Politics, and Economics (PPE), *summa cum laude*, with distinction.
 - *Honors Societies*: Phi Beta Kappa, John Marshall.

RECENT EXPERIENCE

- NEIGHBORHOOD DEFENDER SERVICE OF HARLEM**, New York, NY 2020 – 2022
- Staff Attorney*
- Defend 50-70 people at a time from criminal and collateral penalties on all types of felony and misdemeanor cases.
 - Litigate each case from arraignment to disposition. Argue bail applications, motions to suppress, motions to dismiss, and motions controverting digital forensic searches. Conduct suppression hearings and trials.
 - Write mitigation letters and counsel clients through diversion and alternative-to-incarceration programming.
- NEUFELD SCHECK & BRUSTIN, LLP**, New York, NY 2019 – 2020
- Fellow*
- Represented wrongfully convicted persons in state and federal civil lawsuits. Drafted civil complaints, motions to compel discovery, responses to motions to dismiss, and demands for discovery.
- THE BRONX DEFENDERS**, Bronx, NY 2016 – 2019
- Staff Attorney*
- Defended nearly 1,000 people accused of misdemeanors and felonies from criminal and collateral penalties.
 - Won eight misdemeanor trials and three suppression hearings. Won over fifteen pretrial motions to dismiss for facial insufficiency, for speedy-trial violations, or in the interests of justice.
 - Successfully briefed and argued an appeal before the Appellate Term, First Judicial Department of New York.
 - Supervised and evaluated law student interns. Assisted in training new attorneys. Served as an office writing tutor.
- MEDIA FREEDOM AND INFORMATION ACCESS CLINIC, YALE LAW SCHOOL**, New Haven, CT 2015 – 2016
- Law Student Intern*
- With three other students, handled all aspects of three Freedom of Information Act (FOIA) civil lawsuits.
- THE BRONX DEFENDERS**, Bronx, NY 2015
- Legal Intern*
- Interviewed people held at arraignments and argued for their release. Researched and wrote motions to dismiss and mitigation letters. Analyzed and summarized over 600 discovery documents for a homicide case.
- JEROME N. FRANK LEGAL SERVICES ORGANIZATION, YALE LAW SCHOOL**, New Haven, CT 2014 – 2016
- Law Student Intern, Criminal Justice Clinic*
- Co-Director*
- Represented people from arraignment to dismissal in New Haven courts.
 - Wrote clemency petitions and won immediate release for three people from federal drug sentences, including two from life-without-parole sentences.
- Law Student Intern, Educational Opportunity and Juvenile Justice Clinic* 2014 – 2016
- Represented children in expulsion hearings before the New Haven Public School District.
- FEDERAL DEFENDERS OF NEW YORK, EASTERN DISTRICT OF NEW YORK**, Brooklyn, NY 2014
- Legal Intern*
- Interviewed clients, wrote sentencing and plea negotiation letters, and analyzed discovery documents.
 - Secured a deferred prosecution and a time-served sentence. Researched and wrote motions to suppress.
- AMERICAN CIVIL LIBERTIES UNION FOUNDATION**, New York, NY 2011 – 2013
- Paralegal, National Security Project / Legal Assistant, Speech, Privacy, and Technology Project*

EXHIBIT B

ALL HOURS

Date	Person	Client	Activity	Description	Duration	Time Totals
16-Oct-19	Avinash Samarth	Rosario (Richard)	Meeting	Dep prep meeting with Nick and Rick	0:30	0.5
18-Oct-19	Avinash Samarth	Rosario (Richard)	Deposition	Fayer dep	3:00	3.0
18-Oct-19	Avinash Samarth	Rosario (Richard)	Deposition	Fayer dep	1:30	1.5
4-Dec-19	Avinash Samarth	Rosario (Richard)	Meeting	Meeting with Anna, Emma, Ali, Bettina re: MSJ	0:48	0.8
18-Dec-19	Avinash Samarth	Rosario (Richard)	Meeting	Meeting with Rick, Nick, Anna, Ali	1:00	1.0
18-Dec-19	Avinash Samarth	Rosario (Richard)	Digest	digest whitaker	1:00	1.0
19-Dec-19	Avinash Samarth	Rosario (Richard)	Digest	digest whitaker	2:30	2.5
19-Dec-19	Avinash Samarth	Rosario (Richard)	Digest	digest whitaker	0:30	0.5
19-Dec-19	Avinash Samarth	Rosario (Richard)	Digest	digest whitaker	0:30	0.5
19-Dec-19	Avinash Samarth	Rosario (Richard)	Digest	digest whitaker	1:30	1.5
20-Dec-19	Avinash Samarth	Rosario (Richard)	Meeting	SJ meeting with Rick, Nick, and Anna	2:20	2.3
27-Dec-19	Avinash Samarth	Rosario (Richard)	Draft	56.1 drafting	4:30	4.5
30-Dec-19	Avinash Samarth	Rosario (Richard)	Draft	56.1 statement drafting	1:50	1.8
30-Dec-19	Avinash Samarth	Rosario (Richard)	Draft	56.1 statement	2:30	2.5
4-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	7:32	7.5
5-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	3:58	4.0
6-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	2:06	2.1
6-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	2:45	2.8
7-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	3:30	3.5
8-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	4:18	4.3
9-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	5:58	6.0
10-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	5:45	5.8
10-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	6:00	6.0
13-Jan-20	Avinash Samarth	Rosario (Richard)	Meeting	56.1/SJ meeting	1:30	1.5
13-Jan-20	Avinash Samarth	Rosario (Richard)	Phone Call	meet w/ AF, RS	0:18	0.3
14-Jan-20	Avinash Samarth	Rosario (Richard)	Meeting	meeting with rick re: 56.1	1:40	1.7
15-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	7:18	7.3
16-Jan-20	Avinash Samarth	Rosario (Richard)	Meeting	56.1/SJ meeting	1:20	1.3
16-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	letter motion drafting	1:30	1.5
16-Jan-20	Avinash Samarth	Rosario (Richard)	Meeting	Meet w/ RS, AF re: MSJ	0:12	0.2

17-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	letter motion drafting	3:20	3.3
21-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ letter draft	2:19	2.3
21-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ letter draft	1:00	1.0
21-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ letter draft	0:42	0.7
22-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ letter draft	0:34	0.6
22-Jan-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ letter draft	1:12	1.2
27-Jan-20	Avinash Samarth	Rosario (Richard)	Meeting	Meet w/ ABH , BR, RS, AF re: MSJ response	1:00	1.0
3-Feb-20	Avinash Samarth	Rosario (Richard)	Meeting	Meet w/ RS re: MSJ response	0:12	0.2
3-Feb-20	Avinash Samarth	Rosario (Richard)	Meeting	Meet w/ Rick re: R 56.1 statement	0:18	0.3
7-Feb-20	Avinash Samarth	Rosario (Richard)	Meeting	with bettina, rick, anna, ali	1:00	1.0
7-Feb-20	Avinash Samarth	Rosario (Richard)	Digest		3:00	3.0
10-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ brief outline	4:37	4.6
10-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ brief outline	0:32	0.5
10-Feb-20	Avinash Samarth	Rosario (Richard)	Meeting	with bettina, anna, emma, nick, rick	1:30	1.5
10-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	MSJ outline	0:31	0.5
13-Feb-20	Avinash Samarth	Rosario (Richard)	Meeting	SJ meeting	0:25	0.4
13-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	4:45	4.8
13-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	2:00	2.0
14-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	2:08	2.1
14-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	4:04	4.1
15-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1	7:44	7.7
16-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1 affirmative citecheck	1:51	1.9
16-Feb-20	Avinash Samarth	Rosario (Richard)	Research	rejoining silverman research	1:38	1.6
16-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	responsive 56.1 review	2:07	2.1
17-Feb-20	Avinash Samarth	Rosario (Richard)	Research	MSJ research	7:01	7.0
18-Feb-20	Avinash Samarth	Rosario (Richard)	Meeting	brief	1:42	1.7
19-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1 cites	1:47	1.8
21-Feb-20	Avinash Samarth	Rosario (Richard)	Draft	56.1 drafting and filing	4:45	4.8

Total	143.4
--------------	--------------